

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7100

BILL NUMBER: SB 366

NOTE PREPARED: Feb 3, 2014

BILL AMENDED: Feb 3, 2014

SUBJECT: Township Small Claims Courts and Garnishments.

FIRST AUTHOR: Sen. Schneider

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Township Small Claims Courts:* The bill requires the judges of all the Marion County township small claims courts to select from among themselves a small claims administrative judge to carry out certain duties currently performed by the Marion circuit court judge, including adopting uniform rules for conducting the business of the small claims courts.

It allows a vacationing small claims court judge instead of the Marion circuit court judge to authorize the appointment of a judge pro tempore to handle the judicial business of the small claims court.

Garnishment: The bill makes changes to the maximum part of the aggregate disposable earnings of an individual for any workweek that is subjected to garnishment to enforce the payment of any judgments against the individual.

If a judgment debtor has failed to comply with an agreed order in the action, the bill requires a court to order: (1) any property, income, or profits of a judgment debtor not exempt from execution or process or any debt due to the judgment debtor to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action; and (2) that the judgment or execution is a continuing lien upon the income or profits of the judgment debtor in the hands either of the judgment debtor or any other person from the date the order is served upon the person indebted to the judgment debtor to the extent that the lien, together with all similar liens, is allowed by law.

The bill also provides that: (1) if a court has issued a garnishment order to a third party (such as an employer) that provides income to a judgment debtor; (2) the garnishment order no longer applies to the third party due

to a change in circumstances, including a change in employment; and (3) the judgment creditor files a petition describing the changed circumstances and providing contact information for a new third party who employs or otherwise provides income for a judgment debtor; the court may, without holding a hearing, cancel the first garnishment order and issue a new garnishment order to the new third party.

Study Committee: The bill urges the Legislative Council to assign the topic of small claims court administration to an interim study committee.

Effective Date: July 1, 2014.

Explanation of State Expenditures: The Legislative Council could assign the topic to an existing interim study committee or establish a new interim study committee to study the topic of small claims court administration during the next interim.

Interim study committees operate on budgets established by the Legislative Council based on committee size. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members and \$16,500 for committees with 16 members or more.

If the Legislative Council were to assign this topic to an existing committee and the committee were to have any extra meetings to address this topic, there would be additional expenditures for legislator per diem and travel reimbursement for the committee members. Any additional expenditures must be within the committee's budget.

Explanation of State Revenues:

Explanation of Local Expenditures: The salaries of the small claims court judges are established by the township board of each township and approved by the city-county council. If administrative responsibilities shift from the circuit court judge to one of the small claims court judges selected from among the judges, the salary of the small claims court judge does not necessarily change. The small claims court judges are currently compensated for part-time positions, a decision of the individual township boards subject to public hearing.

Additional Information: The township courts' caseload predominantly consists of landlord-tenant disputes and debt collection matters. The following shows the 2012 caseload of the small claims courts.

Township Court	Total Cases Before the Court	Total Disposed Cases
Center	26,626	11,092
Decatur	6,197	5,509
Franklin	20,132	6,203
Lawrence	9,972	6,936
Perry	10,007	5,426
Pike	14,464	8,996
Warren	32,683	6,578
Washington	11,538	3,269
Wayne	10,087	3,667

The circuit court judge meets with the small claims court judges and has statutory responsibility to provide administrative assistance to the small claims courts.

Explanation of Local Revenues:

State Agencies Affected: Supreme Court.

Local Agencies Affected: Small claims courts.

Information Sources: Denise Schwarzkopf, Marion Circuit Court Recorder; *Report on the Marion County Small Claims Courts*, Marion County Small Claims Courts Task Force, 2013; *2012 Trial Court Statistics*, from the State Court Administrator.

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